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**IN THE UNITED STATES BANKRUPTCY COURT
FOR THE NORTHERN DISTRICT OF TEXAS
FORT WORTH DIVISION**

IN RE:	§	
	§	CASE NO. 20-43914-MXM
Carroll James LeBouef, III	§	
and Challis Lee LeBouef	§	
Debtors	§	
Advancial Federal Credit Union	§	CHAPTER NO. 13
Its assignees and/or successors in interest	§	
Movant	§	
VS.	§	
Carroll James LeBouef, III	§	Hearing Date: March 25, 2021
and Challis Lee LeBouef	§	Hearing Time: 9:30 A.M.
Pam Bassel, Trustee	§	
Defendants	§	

MOTION FOR RELIEF FROM THE AUTOMATIC STAY

TO THE HONORABLE UNITED STATES BANKRUPTCY JUDGE:

Advancial Federal Credit Union ("Movant"), its successors and/or assigns, files this Motion for Relief from the Automatic Stay ("Motion"), and in support thereof, would respectfully show:

1. On December 31, 2020 ("Petition Date"), Carroll James LeBouef, III and Challis Lee LeBouef ("Debtors") filed a voluntary petition under Chapter 13 of the Bankruptcy Code.
2. This Court has jurisdiction of the Motion by virtue of 11 U.S.C. §§105, 361 and 362 and 28 U.S.C. §§157 and 1334.
3. Movant is the owner and holder of a Retail Installment Sale Contract pursuant to which Movant financed for Debtors the purchase of a 2014 Ford F250 Super Duty Crew Cab XLT - VIN: 1FT7W2BT2EEA78158 ("Truck"). Neither Debtor nor the dealership applied for the Certificate of Title

showing Claimant as lien holder of the Truck. Instead, Debtor sold the Truck to a third party and kept the loan proceeds.

4. By virtue of the above, Movant is the holder of a claim against Debtors in the amount of \$48,764.49 (including fees and costs) as of the Petition Date.

5. Movant filed suit against Debtor and the dealership and obtained a Default Judgment in the amount of \$44,372.92 which has been recorded by an Abstract of Judgment filed in Denton County, Texas. A true and correct copy of the Abstract of Judgment indicating Claimant's lien Debtors' real property located in Denton County, Texas.

6. Movant seeks relief from the automatic stay relating to real property located at 2129 Shoreline Drive, Flower Mound, Texas [Doc, No. 29] and 2171 Shoreline Drive, Flower Mound, Texas [Doc. No. 31] (collectively, "Real Properties") to allow Movant to foreclose upon the Real Properties. A Proof of Claim has not been filed by the primary lien holder indicating the amount owed and thus the potential for equity in the Real Properties.

7. Movant alleges that the automatic stay should be lifted pursuant to 11 U.S.C. §362(d)(1) in that Movant lacks adequate protection of its interest in the Real Properties as evidenced by:

- (a) Debtor's failure to provide to pay Movant's claim for amounts due under the Default Judgment;
- (b) Movant's lien on the Real Properties is in jeopardy of being stripped in a potential foreclosure by the primary lien holder; and
- (c) Debtor's failure to show that the Collateral is properly insured.

8. Alternatively, Movant alleges that the automatic stay should be lifted pursuant to 11 U.S.C. §362(d)(2) in that Debtors have no equity in the Real Properties and they are not necessary for an effective reorganization.

WHEREFORE, PREMISES CONSIDERED, Movant respectfully prays that, upon final hearing of this Motion, (1) the automatic stay will be terminated to permit Movant to seek its statutory and other available remedies; (2) Movant be permitted to obtain possession of the Real Properties to the exclusion of Debtors; and (3) Movant be granted such other and further relief, at law or in equity, as is just.

Respectfully submitted,

J. Ward Holliday & Associates, P.C.

/s/ J. Ward Holliday

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Attorneys for Movant

NOTICE

PURSUANT TO LOCAL BANKRUPTCY RULE 4001-1(b), A RESPONSE IS REQUIRED TO THIS MOTION, OR THE ALLEGATIONS TO THIS MOTION MAY BE DEEMED ADMITTED, AND AN ORDER GRANTING THE RELIEF SOUGHT MAY BE ENTERED BY DEFAULT.

ANY RESPONSE SHALL BE IN WRITING AND FILED WITH THE CLERK OF THE U.S. BANKRUPTCY COURT AT U.S. COURTHOUSE, 501 W. 10TH STREET, FORT WORTH, TEXAS 76102, BEFORE THE CLOSE OF BUSINESS ON MARCH 16, 2021 WHICH IS AT LEAST 14 DAYS FROM THE DATE HEREOF. A COPY SHALL BE SERVED UPON COUNSEL FOR THE MOVING PARTY AND ANY TRUSTEE OR EXAMINER APPOINTED IN THE CASE. ANY RESPONSE SHALL INCLUDE A DETAILED AND COMPREHENSIVE STATEMENT AS TO HOW THE MOVANT CAN BE "ADEQUATELY PROTECTED" IF THE AUTOMATIC STAY IS TO BE CONTINUED.

CERTIFICATE OF CONFERENCE

I hereby certify that on the 19th day of February, 2021, in a good faith effort to negotiate a settlement of the dispute, I contacted [x], attempted to contact [] Debtors' attorney who did oppose [x], did not oppose [], could not be reached [], failed to respond by the same time on the second business day [], or would not commit [] to this Motion for Relief from the Automatic Stay.

/s/ J. Ward Holliday
J. Ward Holliday

CERTIFICATE OF SERVICE

I, the undersigned, do hereby certify that a true and correct copy of the above and foregoing was served upon the parties listed below by First Class U.S. Mail, postage prepaid, or by electronic filing notification, on this the 2nd day of March, 2021.

Debtors' Attorney

Marcus B. Leinart
10670 N. Central Expressway
Suite 320
Dallas, Texas 75231

Trustee

Pam Bassel
7001 Blvd. 26
Suite 150
North Richland Hills, Texas 76180

Debtors

Carroll James LeBouef, III
and Challis Lee LeBouef
2130 Shoreline Drive
Flower Mound, Texas 75022

U.S. Trustee

Office of the U.S. Trustee
1100 Commerce Street
Room 976
Dallas, Texas 75242-1496

/s/ J. Ward Holliday

J. Ward Holliday

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**Carroll James LeBouef, III
and Challis Lee LeBouef**

CHAPTER NO. 13

SUMMARY OF EXHIBITS AND CERTIFICATE OF SERVICE

The following exhibits in reference to the Motion for Relief from Stay filed by Advancial Federal Credit Union are available upon request:

1. Retail Installment Sale Contract & Security Agreement dated January 6, 2016 between Debtors and Advancial Federal Credit Union.

Respectfully submitted

/s/ J. Ward Holliday
ATTORNEY FOR
Advancial Federal Credit Union

Copy of the above served this
2nd day of March, 2021 on:

Debtors: Carroll James LeBouef III and Challis Lee LeBouef
Trustee: Pam Bassel